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CENTRAL FAX CENTERAttorney Reference Number 3382-68602-01
Application Number 09/811,236SAW:saw 07/17/06 546651.doc 142320.02
PATENT

JUL 17 2006

Remarks

With entry of the present amendment, claims 26-27, 65-66, 75, 77, 79-92 are pending.

The undersigned attorney for Applicants thanks the Examiner for the telephone interview and fax of suggested claim amendment on June 20, 2006.

In the telephone interview and fax, the Office asserts that the presently pending method claims are considered non-statutory under 35 U.S.C. § 101. Applicants respectfully disagree.

The statute specifically recognizes four categories of subject matter that may be patented, which includes processes. See, 35 U.S.C. § 101, which states, "Whoever invents or discovers any new and useful *process*, machine, manufacture, or composition of matter, ..." (emphasis added). Claims 26-27, 65-66, 75, 77 and 79-83 are drawn to a method, which falls under the statutory category of a process.

Even more specifically, the claimed method is a process of machine operation, which clearly falls within statutory subject matter requirements. The Office correctly observes that the specification of the present application describes the implementation of the method involving software, together with a suitable computing platform (see, Figures 25 and 26). However, no claim has been made to the software alone. The software (i.e., a program listing of instructions that a machine is to perform) by itself is incapable of achieving the various machine operations set forth in the method claims. It is not until the software is loaded onto a suitable computing device (as illustrated in Figures 25 and 26) and executed by the processor 821, 902 in that device that the various operations of the method recited in these claims are actually realized. Applicants therefore respectfully submit that the claims clearly constitute statutory subject matter, and are not drawn to mere software per se.

Newly presented claims 84-92 adopt the preamble language suggested by the Examiner.

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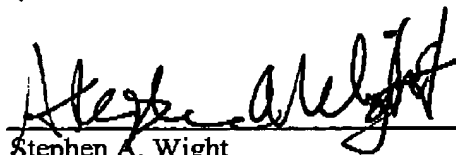
The application should now be in condition for allowance. Such action is respectfully
solicited.

Respectfully submitted,

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